

AO 91 (Rev. 08/09) Criminal Complaint

FILED
RICHARD W. NAGEL
CLERK OF COURT

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

16 DEC 21 PM 2:27

U.S. DISTRICT COURT
SOUTHERN DISTRICT OHIO
WEST DIV. CINCINNATI

United States of America

v.

James Denney

Case No.

1216MJ -731

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 9 - 14, 2016 in the county of Hamilton in the
Southern District of Ohio, the defendant(s) violated:

Code Section

Offense Description

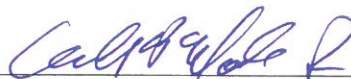
18 U.S.C. § 2252A(a)(3)(B)(i) & (II)

Advertise or Promote child pornographic material or purported child
pornographic material.

This criminal complaint is based on these facts:

See Affidavit

☒ Continued on the attached sheet.



Complainant's signature

Donald P. Moesle, Jr., Special Agent, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date:

12/21/16



Judge's signature

City and state:

Cincinnati, Ohio

Hon. Karen L. Litkovitz, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT:

I, Donald P. Moesle Jr., (hereinafter referred to as your "Affiant") after being duly sworn, depose and state:

- 1) Your Affiant is a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), assigned to the Resident Agent in Charge in Cincinnati, Ohio. I have been so employed since May 2003. As part of my normal duties and responsibilities, I routinely investigate federal criminal violations relating to child pornography and child exploitation/human trafficking in violation of 18 U.S.C. §§ 2251-2260A. I have received specific training in the areas and topics of child pornography and child exploitation. I have been in federal law enforcement since May 1996, previously serving as United States Border Patrol Agent and as an Immigration Inspector for U.S. Immigration and Naturalization Service/Customs and Border Protection.
- 2) Your Affiant is a graduate of the ICE Special Agent Training Program (ICESAT) and the Criminal Investigator Training Program (CITP); both of which are taught at the Federal Law Enforcement Training Center (FLETC) located in Glynco, Georgia. I have also attended training in computer based child exploitation from the National White Collar Crime Center (NW3C) and from HSI'S Cyber Crimes Center (C3). I am a graduate of Ohio University located in Athens, Ohio where I received a Bachelor of Arts Degree in Sociology, specializing in Criminology.
- 3) The statements contained in this Affidavit are based in part on your Affiant's personal knowledge, experience and, additional information provided to him by other law enforcement officers familiar and knowledgeable with the facts and circumstances of this case. This Affidavit is being submitted for the limited purpose of seeking a criminal complaint against **James DENNEY**, (hereinafter referred to as "**DENNEY**"), DOB xx/xx/1986 and a United States Citizen.
- 4) I have not included every fact known by this investigation, and have only set forth facts deemed sufficient and necessary to establish probable cause to conclude that there is evidence that **DENNEY** has violated 18 U.S.C. § 2252A(a)(3)(B)(i) & (II)' to wit: Advertise or Promote child pornographic material or purported child pornographic material.
- 5) Title 18 U.S.C. § 2252A(a)(3)(B)(i) & (ii) states in relevant part:

"Any person who, knowingly advertises, promotes, using any means or facility of interstate or foreign commerce or in affecting interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains – (i) an obscene visual depiction of a minor engaging in sexually explicit conduct or (ii) a visual depiction of an actual minor engaging in sexually explicit conduct."

"Any person who violates or attempts or conspires to violate said paragraph shall be fined under this title and imprisoned not less than 5 years and not more than 20 years."

SUPPORTING FACTS

6) On December 9, 2016, starting at approximately 2:55 PM EST, HSI Special Agent (SA) Fife was involved in communications through the Kik Mobile Messaging platform with a user identified as "JDARKEN4" (registration name is James Smith). This user was later identified as the real person James DENNEY, as previously described in paragraph #3 of this document. The following is the chat as reported by SA Fife in his Report of Investigation PM07QR14PM0004-071:

James Smith: Saw you post wanted to say hi

SA Fife: What's up

James Smith: Not much

SA Fife: U a dad

James Smith: Yeah

SA Fife: Mmm how old ur kid?

SA Fife: Mine 12

James Smith: 5

SA Fife: Mmm boy girl?

James Smith: Girl how about you?

SA Fife: Yep girl

SA Fife: U play?

James Smith: Yeah

SA Fife: Mmmm what u do?

SA Fife: <Sends age-regressed image of Maine State Police officer seated, clothed, in a room. Female appears to be 12-14 years old after age regression.>

SA Fife: Mine

SA Fife: Leah

James Smith: Nice

SA Fife: What do u guys do?

SA Fife: 5 is very nice

James Smith: Little bit of this and a little of that. Still trying to test the waters

SA Fife: I see

James Smith: Yeah

James Smith: Sorry new at this

SA Fife: How long y been playing?

James Smith: Couple months

SA Fife: Mmm

SA Fife: U got clean pic even

James Smith: Not really one I can share. Most have family in them

SA Fife: Huh

James Smith: Sorry might have misunderstood your question

SA Fife: No just surprised u would have no pics of ur own daughter

James Smith: No I have them. Just normally wife or grandparents in them to. I don't take many pictures

SA Fife: Ah ok

James Smith: Yeah

James Smith: Sorry little paranoid about this stuff still

SA Fife: Understood

SA Fife: What ages u into

James Smith: Prefer closer to preteen

SA Fife: Mmm so my dau would be ur style 😊

James Smith: Yeah

James Smith: :)

James Smith: What about you

SA Fife: Mmm 4-8

James Smith: Nice so my baby girls right there

SA Fife: Oh yea?

James Smith: Maybe trade sometime

SA Fife: Mmm what u got? What u want to see of my dau?

James Smith: Hmm I got a vid of me playing with her. And what do you suggest ;) you know what you have better then me

SA Fife: Some oral stuff at home. I'm traveling for work until Tuesday but have about 6 on SD card

SA Fife: U got internet stuff?

SA Fife: ??

James Smith: Yeah some

James Smith: Sorry around wife I delete Kik

James Smith: I can shoot you my drop box links in a few if you want them

SA Fife: Mmm

SA Fife: I understand re wife...mine snoops like crazy

<December 10, 2016>

SA Fife: Hey

<December 11, 2016>

SA Fife: Where u go??

<December 12, 2016>

James Smith: Sorry

James Smith: Didn't get another chance to get back

James Smith: Yeah my wife is the same

SA Fife: It sucks but oh well

James Smith: Yeah

SA Fife: Mmm u said u had links?

James Smith: Yeah

SA Fife: Horny as fuck at my hotel

James Smith: I know the feeling

SA Fife: Mmm

SA Fife: Hows ur dau

James Smith: You know how to use for?

James Smith: Tor?

James Smith: She is good. Had to drop her off at daycare

SA Fife: Not really, not too savvy w that shit why?

James Smith: Ah I keep everything out there so it's hidden and protected

SA Fife: Oh nice! Thought u used Dropbox or is there a tor version?
James Smith: Tor version
SA Fife: Sweet. Would I need to download a tor browser to see?
James Smith: Yeah
SA Fife: Got one.
James Smith: K one sec
James Smith: es2adizg32j3kob5.onion
James Smith: Something to help tie you over til I get a sec to boot up
SA Fife: Crap it's not working on phone I'll download tor on laptop and try
SA Fife: What u booting up?
James Smith: My laptop but been hectic at work
SA Fife: Ah gotcha what u do for work?
James Smith: Mechanical engineer
SA Fife: Nice. I'm in insurance, no where near as exciting
SA Fife: But makes me travel all the time
James Smith: Cool
SA Fife: And always horny
James Smith: Lol same
SA Fife: What was that website? Looked like bunch of links but didn't work
James Smith: Yeah it was a site of all the places in tor to find things to scratch an itch
SA Fife: Ah
James Smith: Yeah
SA Fife: Cool. Well if u got links that'll scratch my itches, I should be able to send some of my dau stuff tomorrow or so when I get back
James Smith: Cool
James Smith: I will resend here soon. Look for the links with hearts next to them.
SA Fife: Or the db ones u mentioned...those i can open on my phone
James Smith: I can send those when I get time. Haven't even touched my work computer
SA Fife: Ok cool

<December 13, 2016>

SA Fife: Mmm hows ur dau
James Smith: Happy and content ;) how is yours?
SA Fife: Good get home late tonight to see her
James Smith: Nice
James Smith: I'm sure you been missing her
SA Fife: Mm fuck yeah
James Smith: Lol
SA Fife: So how long u been playing w urs?
James Smith: Not long. Been kinda fearful of it
James Smith: Don't want to cause lasting issues or any major issues
SA Fife: I hear ya. Feel the same way. That's why I look at shit more than I play w her
James Smith: "Same That link has a shit ton on there. Just turn off Java"
James Smith: There is a site in the list called hurt me they have a none hurt core section that has a lot of stiff
SA Fife: Fuck still can't get it to work. Got a bberry10, which is prob the main problem
James Smith: Lol right

SA Fife: U still working

<December 14, 2016>

SA Fife: How u doing?

SA Fife: U delete urself again?

James Smith: Lol sorry was cleaning out messages and got yours

SA Fife: No worries trying to send u something last night but bounced back. How you doing?

SA Fife: U ever on at night?

James Smith: Lol tired. And no I work and sleep

SA Fife: That sucks dude. I'm home w her most evenings when not on road

SA Fife: Can try and send again tonight if u pop on

James Smith: Sure

SA Fife: Hit me w one of ur Dropbox if u get chance today I can rub one out at work

James Smith: Lol rgr

SA Fife: Mmm cool

- 7) SA's Fife was able to review the website "es2adizg32j3kob5.onion" by accessing it with a Tor web browser. The following is a description of the website as documented by SA Fife in the aforementioned Report of Investigation:

"Following the conversation described above, SA Fife navigated to the Tor website provided by "jdarken4," and found it to be an online board featuring dozens of links to child pornography chat rooms, video/image board sites, as well as "community" support groups and online security advice for child pornographers. The site was well categorized; for instance, one category, titled "Image Boards," featured sublinks for "Baby and Infants," "Candydoll," "Cute Boys" and "Cute Girls," among others. SA Fife further encountered the subgroup recommended by "jdarken4," titled "Hurt Meh," in a section called "Hurt Core." SA Fife navigated to the "Hurt Meh" link, and found it to lead to a message board that required one to create a profile to view anything within it. SA Fife did this, and was taken to another message board that featured sections titled "Hurtcore: Toddler Videos, Preteen/Hebe Children Videos, Teen Videos, Toddler Images, Preteen/Hebe Children Images, Teen Images," and "Gore/Death: Toddlers, Preteen/Hebe Children, Teens." The site also featured a section titled "Regular Porn: Non-Hurtcore – Teens and under." SA Fife viewed the "Toddler Videos" sub-section of the "Hurtcore" section, and found it to contain numerous videos of toddlers being tied, handcuffed, and raped. These videos were uploaded by numerous anonymous individuals who claimed that the children were their own. SA Fife additionally viewed the "Regular Porn: Non-Hurtcore – Teens and under" section, and found it to contain dozens of more 'mainstream' child pornography videos depicting male and female prepubescent minors."

- 8) Your Affiant was able to review the aforementioned websites that SA Fife was directed to by **JDARKEN4**. SA Moesle confirms that the content is as-described by SA Fife. The investigation identified James **DENNEY** as the likely user of the **JDARKEN4** Kik account.

- 9) On December 21, 2016, HSI Cincinnati with assistance from other federal and local law enforcement executed federal search warrants at **DENNEY'S** residence and work place and on his vehicle, all of which are in the Southern District of Ohio.

10) During the execution of the search warrant, **DENNEY** consented to an interview with HSI Special Agents Don Moesle and Brian Turk. The interview took place at the Sharonville, Ohio, Police Department. The interview was recorded.

11) **DENNEY** was provided his Miranda Warnings. He waived his rights and voluntarily consented to an interview.

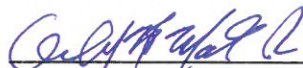
12) During the interview, **DENNEY** admitted that he sent the URL, es2adizg32j3kob5.onion, to the SA Fife. **DENNEY** further stated that he found the URL while doing a Google search and that after viewing it, he understood that it contained access to child pornography and he provided to [SA Fife] because he [DENNEY] understood that was what [SA Fife] wanted.

CONCLUSION

13) Based on the aforementioned facts, **DENNEY**, being the user identified as "JDARKEN4," via the Internet and the Kik Mobile Messaging platform, directed SA Fife to specific site within the Darkweb and then from there to a link for a specific Darkweb site containing child pornography.

14) Based on the aforementioned facts, your Affiant respectfully submits that there is probable cause to believe that between December 9 and December 13, 2016, in the Southern District of Ohio, **DENNEY** knowingly advertised and promoted, using the Canada-based Kik Mobile Messaging service and the Internet, material and/or purported material in a manner that reflected the belief, or that was intended to cause another to believe, that the material or purported material is, or contains – (i) an obscene visual depiction of a minor engaging in sexually explicit conduct or (ii) a visual depiction of an actual minor engaging in sexually explicit conduct, all in violation of Title 18 U.S.C. § 2252A(a)(3)(B)(i) & (ii).

15) Therefore, your Affiant respectfully requests that a Criminal Complaint be issued that charges **DENNEY** with violating the aforementioned United States Code Sections.



DONALD P. MOESLE, JR.
Special Agent HSI

Sworn to before me this 21 day of December, 2016.



Hon. Karen L. Litkovitz
U.S. Magistrate Judge